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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,970	04/21/2004	Christopher P. Miller	WYTH0039-101 (AM100787-D1)	5396
35139	7590	06/13/2005	EXAMINER	
COZEN O' CONNOR, P. C. 1900 MARKET STREET PHILADELPHIA, PA 19103-3508			DENTZ, BERNARD I	
			ART UNIT	PAPER NUMBER
			1625	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,970

Applicant(s)

MILLER ET AL

Examiner

Bernard Dentz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 6-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

In the following Groups I-V restriction among benzofurans which are substituted with a 2-(4-oxyphenyl) group and a 5-oxy- group is based on the 7-position substituent. Below they will be denoted as B.

- I. Claim 6, drawn to B with hydrogen (i.e. unsubstituted at 7-), hydrocarbon or a halohydrocarbon moiety at 7 , classified in class 549, subclass 467.
- II. Claim 6, drawn to B with a hydrocarbon group containing O or S singly bonded thereto at 7, classified in class 549, subclass 467.
- III. Claim 6, drawn to B containing a group with a carbon double or triple bonded to a N, O or S atom at 7, classified in class 549, subclass 467.
- IV. Claim 6, drawn to B containing amino, halogen, oxygen or nitro directly attached to 7, classified in class 549, subclass 467.
- V. Claim 6, drawn to B containing a heteroaryl group directly attached at 7 as in o) and nnnnn), classified in class 548, subclass 143.
- VI. Claim 6, drawn to benzofurans containing a 2-(4-oxy-phenyl) group and a hydroxymethyl, carboxy or carboxylic acid ester group in the 5-position as in rrrr) thru ttttt) , classified in class 549, subclass 467.
- VII. Claim 6, drawn to benzofurans containing a 4-hydroxymethyl- or 4-carboxy- or 4-methoxycarbonylphenyl group in the 2-position as eeeee), cccccc) and ddddd) , classified in class 549, subclass 467.

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- VIII. Claim 6, drawn to benzofurans containing an acetyl group or its alcohol or oxime derivative in the 3-position as in nnnn), oooo) and pppp), classified in class 549, subclass 467.
- IX. Claim 6, drawn to biphenyl containing benzofurans as in iiiii) to llll), classified in class 549, subclass 467.
- X. Claim 6, drawn to benzofurans substituted at 5- with halo, alkyl or haloalkyl as in mmm) to bbbb) classified in class 549, subclass 467.
- XI. Claim 6, drawn to benzofuran boronic acid type compound jjj), classified Class 549, sub-class 213.
- XII. Claim 6, drawn to benzaldehydes a), oo) and pp), classified in class 568, subclass 442.
- XIII. Claim 6, drawn to 1,4-dimethoxybenzenes tt), ss) and rr), classified in class 558, subclass 410.
- XIV. Claim 6, drawn to 1,2-di(substitutedphenyl)ethanones hhh), aaaaa) and uu), classified in class 568, subclass 331.
- XV. Claim 6, drawn to 2-iodo-4-methoxy-6-nitrophenol cccc), classified in class 568, subclass 649.
- XVI. Claim 10 drawn to a method of treating prostatitis.
- XVII. Claim 11 drawn to a method of treating inflammatory bowel disease.
- XVIII. Claim 12 drawn to a method of treating cancer, etc.
- XIX. Claim 10 – a method of lowering cholesterol.
- XX. Claim 11- a method of cognition enhancement.

- XXI. Claim 12- a method of inhibiting free radicals.
- XXII. Claim 13 –a method of inhibiting vaginal atrophy.
- XXIII. Claim 14-a method of inhibiting vasomotor symptoms.
- XXIV. Claim 15- a method of inhibiting conception.
- XXV. Claims 16-18- a method for inhibiting arthritis, etc.
- XXVI. Claim 19- a method of treating psoriasis.
- XXVII. Claim 20- a method of treating ischemia, etc.
- XXVIII. Claim 21-a method of treating endometriosis.
- XXIX. Claim 22- a pharmaceutical composition containing a compound of formula I. It is believed this is the subject of the last claim of applicants' US Patent 6,774,248.
- . Benzofurans of many different types of substitution are present in aggregation of species claim 6 as well as different types of non-benzofuran compounds containing different functional groups and 1 or 2 phenyl moieties. Some of the directly above mentioned benzofurans are intermediates and some are final product intended pharmaceuticals. All of the non-benzofurans are intermediates. The multitude of methods of use are very diverse. If applicants pick one of these methods they should elect the one with the most enabling disclosure. Thus restriction of the above distinct and independent inventions which have different searches is proper.

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In case one of the compound Gps. or generic method of use Gps. is elected, applicants should elect a single disclosed species in case no generic claim is found allowable.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Dentz whose telephone number is 571-272-0683. The examiner can normally be reached on Mon.-Fri from 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached on 571 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dentz

6-8-2005


BERNARD DENTZ
PRIMARY EXAMINER
GROUP 1625